

Master Service Agreement

(VPS & Dedicated Server)

This agreement ("Agreement") is between hosting service provider ITH Infotech ("A ITH Company") and the customer (".....") specified in the electronic order form annexed herein by reference ("Order"). The agreement is made effective as of the date of the order.

The parties agree as follows:

Overview

This agreement in conjunction with the ITH Acceptable Use Policy are intended to cover VPS and Dedicated Server services provided by ITH and received by the Customer. This service agreement and annexed AUP together, contain the entire understanding between ITH and Customer with respect to the services ("Services") described in the Order and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between ITH and Customer. Customer acknowledges and agrees that its entire right relating to ITH Services are as set forth in this agreement and hereby waives all other rights that it may have by implication of law or otherwise.

1. Services

Subject to the terms and conditions of this agreement, ITH agrees to provide the hosting services specified in the Order. Subject to Customer's right to terminate this agreement in accordance to Section 4.3 of this agreement, ITH may expand or contract the scope of the ITH's services by issuing an amended order form to the Customer in advance of such change.

2. Initial Term

The initial term of this Agreement is stated in the Order ("....."). The Initial Term shall not commence until ITH accepts and confirms the completed order form from the Customer and until first payment as set out in the Order is made in full by the Customer for Services to be provided during the Initial Term. ITH reserves the right to reject any order in which case moneys collected will be refunded/reversed.

3. Renewal Term

Unless terminated by ITH or in accordance with Section 4.3 of this Agreement, this Agreement will automatically renew for successive terms of equal length to the Initial Term at the applicable rate and discounts.

4. Fees and Payment

The Customer agrees to pay ITH, without limitation, for services provided. Customer is fully responsible to ensure payment of any and all amounts due, are paid on time independently of receiving any invoices or billing notifications from ITH. Customer accounts may be cancelled with or without warning if any and all customer accounts are not paid up-to-date.

Customer is responsible for keeping their contact and billing information up-to-date and accurate, including but not limited to a properly functioning and reachable email address and telephone number.

Invoices will be provided to Customer by any of the following means: email, online ITH account control panel, fax or mail. ITH assumes no responsibility for invoices lost or not received. Dollar amounts and costs indicated for all ITH services are in US dollars, unless otherwise stated. Payments for all ITH services are billed and due on the first of each month or from the services started. ITH reserves the right to refuse acceptance of any form of payment or terms. Service and/or handling fees above and beyond those listed may apply at the discretion of ITH.

1. 4.1 Overdue Accounts

1. Overdue accounts may, at the discretion of ITH, be issued a late payment reminder and/or 24 hour disconnection warning notice. Disconnected accounts are cancelled automatically after 72 hours unless: payment is received in full or alternative, suitable arrangements are made with ITH. A minimum \$25 reconnection fee will be charged on all accounts reconnected after being suspended/disconnected. NOTE: If an account is cancelled, there is NO possibility that it can be restored and/or its data recovered.

2. 4.2 Other Charges

1. Customers agrees to pay all sales and value-added taxes, duties or levies imposed by any authority, government, government agency or commission or crown corporation in connection with the ITH hosting services as provided under this agreement.

3. 4.3 Traffic Usage

1. Monthly traffic overages (if any) will be billed to Customer at regular rates without further notice on a monthly basis. If traffic overages become excessive during any given billing period ITH may at its discretion bill and collect for the overages prior to the next regular billing cycle.

ITH reserves the right to change the rates for Service provided under this Agreement at any time after the Minimum Service Period or any subsequent term by providing written notice to Customer at least 30 days in advance of the effective date of the change.

5. Cancellation

All hosting contract terms are specified on the Order and can be month-to-month or 3-month or 12 month or other. The cancellation of any hosting service by the Customer MUST be made in writing to ITH at least 30 days prior to the requested cancellation date. There are no partial refunds or credits for early cancellations. All payments to ITH are final and non-refundable.

6. Acceptable Use Policy

Customers must comply with the then-current version of the ITH AUP which is attached herewith. ITH reserves the right to amend the Policy. ITH reserves the right to suspend the Services or terminate this Agreement effective upon notice for a violation of the Policy.

7. Service Level Agreement

The Service Level Agreement ("SLA") for this service is set forth attached herewith and applies only to Customers agreeing to a term commitment of at least six or twelve (12) months. ITH reserves the right to amend the SLA from time to time effective upon posting to the website; provided that in the event of any amendment resulting in a material reduction of the SLA service levels or credits, Customer may terminate this Agreement without penalty by providing ITH written notice of termination during the 30 days following notice of such amendment. The SLA sets forth a Customer's sole and exclusive remedy for any claim relating to this agreement, including any failure to meet any service level set forth in the SLA. The maximum amount of credit in any calendar month under the SLA will not exceed the monthly fee.

8. Maintenance Windows

The Customer agrees that it may be necessary for ITH to temporarily suspend services for technical reasons or to maintain the ITH network, the Equipment or any other facilities, the timing of which will be as determined by ITH. Such suspension of the Services known as "Maintenance Windows" will not be an interruption of the ITH Services for the purpose of calculating network availability or the Customer's entitlement to SLA credit(s).

9. Compromised/Hacked Server

A compromised or "hacked" server is a serious threat to our network. ITH, at its sole discretion, will take any and all measures to prevent a compromised server from doing additional damage to its own system and files or to the rest of the network. ITH may charge a reconnection fee of \$25 for any server that has been disconnected due to compromise or other AUP violation.

10. Publicity

Neither party may use the other party's name, trademarks, trade names or other proprietary identifying symbols without the prior written approval of the other party. Customer may not use ITH's name, trademarks, trade names, or other proprietary identifying symbols, or issue any press release or public statement relating to this Agreement except as may be approved by ITH in writing.

11. Termination of Agreement

If Customer breaches any of its obligations under this agreement or the Acceptable Use Policy (AUP) then ITH may terminate this agreement at any time and without prior notice.

1. 11.1 Discretionary Suspension or Cancellation of Services

1. ITH reserves the right to refuse, suspend or cancel services provided to Customer for any reason ITH deems necessary or warranted, including but not limited to, abusive or belligerent behavior, excessive administrative issues, consistent delinquent or late payments. ITH may exercise this right at any time without prior warning or further explanation to Customer.
2. ITH is not responsible for any loss of data or downtime resulting from willful, accidental or mistaken disconnection or cancellation of an account.

12. Limitation of Liability

Customer acknowledges and agrees neither ITH nor any of its members, shareholders, directors, officers, employees or representatives will be liable for any special, indirect, consequential, punitive or exemplary damages, or damages (including but not limited to damages for loss of profits or savings, loss of data, or loss of use) in connection with this agreement. If, despite the foregoing limitations, ITH or any of its shareholders, directors, officers, employees or representatives should become liable to Customer or any other person in connection with this agreement for ANY REASON, then the maximum aggregate liability of ITH, its members, shareholders, directors, officers, employees and representatives for all such things and to all such parties will be limited to the lesser of the actual amount of loss or damage suffered by the claimant or the amount payable by Customer to ITH for one month of service under this agreement.

13. Indemnity

Customer will indemnify and save harmless ITH and its members, shareholders, directors, officers, employees, agents, contractors, and representatives from and against all damages, losses, costs and expenses (including actual legal fees and costs), fines and liabilities incurred by or awarded, asserted or claimed against ITH or any of its members, shareholders, directors, officers, employees and representatives in connection with Customer's negligence, activities or omissions, or breaches of its obligations under this agreement, including claims brought by a person using or relying upon any advice given or publication produced and distributed by Customer.

14. Force Majeure

Neither party shall be liable of any delay or failure in performance due to Force Majeure, which includes without limitation, acts of God, earthquake, labor disputes, riots, war, fire, epidemics, acts or omissions of vendors or suppliers, equipment failures, transportation difficulties or other events which are beyond reasonable control.

15. Confidentiality

Each party's confidential or proprietary information disclosed hereunder ("Confidential Information") shall be held confidential by the receiving party.

Neither party may disclose the other party's personal or Confidential Information to third parties without the other party's written consent. Either party is permitted to use the other party's Confidential Information among its employees only on a need-to-know basis and shall use such information only for the purpose of performing its obligations pertaining to this agreement.

Where ITH is required by applicable law, regulation, or by a government agency or court order, subpoena, or investigative demand, to disclose the terms of this Agreement or the Customer's Confidential Information, Customer acknowledges and agrees that ITH is permitted to do so.

16. Governing Law

This agreement shall be interpreted in accordance with and be governed in all respects by the laws of the Province of Chandigarh, U.T and the laws of India applicable therein. The courts of Chandigarh, India shall have non-exclusive jurisdiction to entertain any action or proceeding brought by the parties in connection with this agreement or any alleged breach of this agreement. The parties each attorney irrevocably to the jurisdiction of such courts.

17. No Warranty

Customer acknowledges that it accepts all risk of any unauthorized or illegal use of the ITH network or any inter-connected network by third parties. ITH provides no warranties, makes no representations, and accepts no liability for the unauthorized or illegal access or interference with the Customer's server/network.

18. IP Address Ownership and Usage

ITH maintains ownership of all IP addresses that are assigned to Customers and reserves the right to change or remove them at its sole and absolute discretion. Networks assigned from an ITH net-block are non-portable. Network space allocated by ITH must be returned to ITH in the event Customer discontinues service.

The allocation of IP addresses is restricted by the policies of ARIN. These policies dictate that name-based hosting MUST be used whenever possible. ITH reserves the right to periodically review IP address usage and revoke authorization to use those IP addresses not being utilized or where name-based hosting could be used.